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Attorneys for Plaintiff,
Markel American Insurance Company

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

| | | |
|-------------------------------------|---|--|
| In re: |) | Case No. 2:17-bk-19548-NB |
| |) | |
| LAYFIELD & BARRETT, APC |) | CHAPTER 11 |
| |) | |
| Debtor(s). |) | Honorable Neil W. Bason |
| ----- |) | |
| |) | Adv. Proc. No. 2:17-AP-01412-NB |
| EVANSTON INSURANCE COMPANY, |) | |
| an Illinois corporation, |) | JOINT STIPULATION AND |
| Plaintiff, |) | [PROPOSED] ORDER OF |
| vs. |) | DISMISSAL WITH PREJUDICE |
| LAYFIELD & BARRET, APC, PHILIP J. |) | |
| LAYFIELD, an individual, JOSEPH |) | |
| BARRETT, an individual, TODD D. |) | |
| WAKEFIELD, an individual, and TERRY |) | |
| BAILEY, an individual, |) | |
| Defendants. |) | |

JOINT STIPULATION AND [PROPOSED] ORDER OF DISMISSAL WITH PREJUDICE

STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff and Counterdefendant, Evanston Insurance Company (“Evanston”), and Counterclaimant, Joseph M. Barrett (“Defendant,” “Counterclaimant,” or “Mr. Barrett”) (collectively, with Evanston, the “Parties”), through their respective Attorneys of Record, hereby stipulate and agree as follows:

WHEREAS, Evanston, in reliance on a materially false application, issued Lawyers Professional Liability Insurance Policy Number LA808710, for the Policy Period of February 15, 2017 to February 15, 2018 (the “Policy”), to the debtor, Layfield & Barrett, APC (“L&B”), under which Mr. Barrett would have qualified as an Insured (subject to the Policy’s other terms and conditions and applicable law), had the Policy not been void on the ground that it was obtained on the basis of a materially false application;

WHEREAS, certain L&B creditors filed in this Court an involuntary Chapter 7 petition with respect to L&B on August 3, 2017, captioned, *In re: Layfield & Barrett, APC*, Case No.: 2:17-bk-19548-NB (converted to Chapter 11 on August 11, 2017);

WHEREAS, Evanston, on August 18, 2017, notified L&B and all known individual Insureds (Philip J. Layfield, Todd D. Wakefield, Joseph Barrett, and Terry Bailey) by email of its intent to seek judicial confirmation of rescission as to L&B, and to rescind the Policy as to all other Insureds, and, on August 22, 2017, filed a Complaint, in this Adversary Proceeding, asserting claims for Rescission and Declaratory Relief;

WHEREAS, Mr. Barrett answered Evanston’s Complaint, and asserted Counterclaims against Evanston for Breach-of-Contract and Declaratory Relief, on November 17, 2017;

WHEREAS, Evanston answered Mr. Barrett’s Counterclaims and asserted affirmative defenses on December 11, 2017;

WHEREAS, the Court, on March 13, 2018, entered Judgment on Evanston’s claim for Rescission, and declared that the Policy “is hereby rescinded, in its entirety,

1 rendering it void, *ab initio*, such that it provides no coverage whatsoever, to any
2 person or entity, for any claim, suit, or other matter”;

3 WHEREAS, the Parties agree that their respective claims/counterclaims for
4 Declaratory Relief, and Mr. Barrett’s Counterclaim against Evanston for Breach of
5 Contract, are moot, and have no further legal basis, in light of the Judgment (which
6 has become final) and the attendant rescission of Policy, and therefore stipulate to the
7 dismissal of all such claims/counterclaims remaining between them in this Adversarial
8 Proceeding:

9 NOW, THEREFORE, the Parties, by and through their attorneys of record,
10 hereby stipulate and agree as follows:

11 Evanston’s claim against Mr. Barrett for Declaratory Relief, and Mr.
12 Barrett’s Counterclaims against Evanston for Breach of Contract and Declaratory
13 Relief are hereby dismissed, with prejudice, each side to bear his or its own costs.

14 **IT IS SO STIPULATED.**

15 Dated: May 22, 2018

LOCKE LORD LLP

16 By: /s/ Michael F. Perlis
17 Michael F. Perlis
18 Richard R. Johnson
19 Attorneys for Plaintiff and
20 Counterdefendant,
21 EVANSTON INSURANCE
22 COMPANY

23 Dated: May 22, 2018

AFFELD GRIVAKES LLP

24 By: /s/ Damion Robinson
25 Damion Robinson
26 Attorneys for Defendant and
27 Counterclaimant,
28 JOSEPH BARRETT